

REMARKS

This is in response to the Official Action currently outstanding with regard to the present application, which Official Action the Examiner has designated as being FINAL

Claims 1-7 are pending in this application. By the foregoing Amendment, it is proposed that Claims 1, 2, 4 and 6 be amended. Further, it is proposed that Claim 3 be canceled, without prejudice. The present Amendment does not propose the addition or the withdrawal of any claims. Accordingly, in the event that the Examiner grants the entry of the foregoing amendment, Claims 1, 2 and 4 - 7 as hereinabove amended will constitute the claims under active prosecution in this application.

The claims of this application as they will stand in the event that the Examiner grants the entry of this Amendment are set forth above with appropriate status identifiers as required by the Rules.

More particularly, in the currently outstanding Official Action the Examiner has:

1. Failed to re-acknowledged Applicant's claim for foreign priority under 35 USC §119 (a)-(d) or (f), and has failed to reconfirm the receipt by the United States Patent and Trademark Office of the required copies of the priority documents – **Since the Examiner previously acknowledged Applicants' claim for foreign priority and submission of the required copy of the priority document, this item is simply noted for the record here;**
2. Failed to reconfirm his previous acceptance of the drawings as filed on 5 December 2001 –**Since the Examiner also previously indicated the acceptability of the drawings currently on file in this application, this item too is simply noted for the record here;**
3. Acknowledged the Information Disclosure Statement filed in this application in November of 2004 by providing Applicant with copies of the Forms PTO 1449 that accompanied that Statements duly signed, dated and initialed in confirmation of the consideration of the art identified therein;

4. Pointed out a minor typographical error in Claim 1 – **the error pointed out by the Examiner is corrected by the foregoing proposed Amendment;**
5. Rejected claims 1 and 2 under 35 USC §103(a) as being unpatentable over the Nakano reference (US Patent No. 6,438,090) in view of the Takahashi reference (US Patent No. 6,108,139);
6. Rejected claims 6-7 under 35 USC §103(a) as being unpatentable over the Nakano reference (US Patent No. 6,438,090) in view of the Takahashi reference (US Patent No. 6,108,139) further in view of the Maeda et al. reference (US Patent No. 6,414,931); and
7. Objected to Claims 3-5 as being dependent upon a rejected base claim, but indicated that those claims would be allowable if rewritten in independent form including all of the limitations of their respective base claims and any intervening claims.

No further comment regarding items 1-4 above is deemed to be required in these Remarks.

With respect to items 5-7, it is noted that the Examiner has indicated that the subject matter of Claims 3-5 is allowable by virtue of his statement that claims 3-5 would be allowable if rewritten in independent form including all of the limitations of their respective base claims and any intervening claims. It further is noted that all of the claims of this application are directly or indirectly dependent upon independent Claim 1.

Applicant respectfully submits that the limitations of Claim 2 are not necessary to the patentability of Claim 1 rewritten to include all of the limitations of Claim 3 as has been proposed above. In other words, the presence or absence of an optical reflective means as required by Claim 2 is not necessary to the patentability of a combination of Claims 1 and 3. In this regard, attention is respectfully directed to the present specification at page 38, lines 12-20, wherein it is stated that:

“Further, though the first lens 31 and the second lens 32 have been shown as being arranged with the first optical axis 19 and the second optical axis 33 oriented perpendicularly to one another, the configuration need not be limited to this particular arrangement, for example, the first lens 31 and the second lens 32 may be arranged with the first optical axis 19 and the second optical axis 33 oriented at any suitable angle to each other, or may be arranged in a straight line”(Emphasis added).

Accordingly, Applicant respectfully submits that independent Claim 1 as hereinabove amended to include all of the limitations of Claim 3 (but not the limitations of intervening claim 2) is allowable as being within the scope of the Examiner's objection to Claim 3 in the currently outstanding Official Action. Further, since Claims 4-7 have been amended herein so as to depend either directly or indirectly from Claim 1, without the inclusion of the limitations of Claim 2, Applicant respectfully submits that those claims are also allowable. A decision so holding in response to this communication is respectfully requested.

The foregoing comments are without prejudice to the Examiner's suggestion that a combination of the limitations of Claims 1, 2 and 3 is allowable, or to Applicant's submission that Claim 2 as hereinabove amended so as to remove wording rendered unnecessary by the amendment of Claim 1 and to reorder its various elements is allowable. Applicant respectfully submits that amended claim 2 is allowable as being dependent from Amended Claim 1, which upon the entry of the foregoing Amendment will constitute a combination of original Claims 1 and 3.

In addition, Applicant respectfully calls the Examiner's attention to what is believed to be an error in his analysis of Claim 2. Specifically, the Examiner's rejection of Claim 2 is based upon his analysis of elements 7, 8 and 9 of Fig. 6 of the Nakano reference. However, Applicant respectfully submits that Nakano's Fig. 6 cannot be correctly considered alone, but rather must be considered with reference to Fig. 7 wherein the relationship of the elements of Nakano's device relative to the recording medium is shown. Accordingly, it will be seen that Column 7 of the Nakano reference clearly indicates that the structure of element 10 of Fig. 6 is shown in Fig. 7. Once this is understood, Applicant respectfully submits that it becomes unambiguously clear that the optical axis of lens 9 (the lens nearer to the light source 1 than the optical reflective means 11 is disposed perpendicularly to the axis of the recording medium 16, not parallel thereto as required by Claim 2.

In view of the foregoing Amendment and Remarks, Applicant respectfully submits that all of the claims that would be present in this application in the event that the Examiner grants the entry of the foregoing Amendment are in condition for allowance, or at the very least are in better form for Appeal, as required by 37 CFR 1.116. Therefore, a decision that grants entry to the foregoing Amendment and that allows Claims 1-2 and 4-7 as hereinabove amended is respectfully requested.

Applicant also believes that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. 04-1105, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

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SIGNATURE OF PRACTITIONER

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